

**REPRESENTATIVE TOWN MEETING
TOWN OF DARIEN, CONNECTICUT
PUBLIC WORKS COMMITTEE**

Minutes of a Meeting Held on May 2, 2005

On May 2, 2005, a regularly scheduled meeting of the RTM Public Works Committee was held in Room 206 of the Darien Town Hall. Eight out of ten members were present. Present were:

Charles Andrew (Chairman)	John DeVita
David Bayne (Clerk)	L.J. Galvin
Jay Cook	Stephen Johnson
Mark Dailey	Brian Rayhill

Absent were Elsie Berl and Frank Kemp.

Also present were First Selectwoman Evonne Klein, Selectman Joseph Miceli, Town Administrative Officer John Crary, Town Counsel John Wayne Fox, Esq., Director of Public Works Robert Steeger and Assistant Director of Public Works Darren Oustafine. Members of the public were also present.

The meeting was called to order by Mr. Andrew at 8:15 p.m. The first order of business was consideration of the proposed Second Supplemental Agreement between the State of Connecticut Department of Transportation (“DOT”) and the Town of Darien amending the agreements pursuant to which the Town of Darien leases its two Metro-North Railroad stations and their adjacent parking lots (hereinafter “Agreement”). Mr. Andrew invited Ms. Klein to provide the Committee with the background, the rationale and an explanation of the proposed Agreement, which she did.

Upon the conclusion of her prepared remarks, Ms. Klein, Mr. Crary and Mr. Fox answered questions from the Committee and the public with respect to the Agreement. Ms. Klein emphasized in both her remarks and in her answers to questions that the Agreement is intended to bring Darien's lease with the DOT into conformance with those of other towns in Fairfield County. Specifically, Darien is the only town that is required to remit twenty percent (20%) of its gross parking and leasing revenue from railroad station leases to the DOT. Under the proposed Agreement, Darien will no longer be required to remit any money to the DOT, and will instead be required to place twenty percent (20%) of the aforementioned gross revenue or \$100,000 per year, whichever is greater, into a "capital improvement fund" for use on capital improvement projects to improve the two stations. The Agreement also details the Town's responsibility for day-to-day operational maintenance at the two stations in an attached schedule.

Members of the Committee asked a series of questions concerning whether parking fees would have to be raised to meet the Town obligations under the Agreement; the likelihood and circumstances under which the DOT could appropriate the capital improvement fund for its general purposes in the event of a lease termination; what projected projects would be funded by the capital improvement fund; why the Agreement extended Darien's right to lease the stations only through 2012 (including a two year option) while the current agreements provide Darien with an option to lease the stations through 2018; whether Darien could bargain for a "most favored nation" clause in the event other

towns negotiate more favorable leases with the DOT during the term of the Agreement; and what additional burdens would be imposed on the Town from the worker protection training required by the Agreement.

Ms. Klein and Mr. Crary answered the questions of the Committee by advising the Committee that the experience of other towns with leases similar to the proposed Agreement was that of a partnership with the DOT. The DOT is very interested in seeing that improvements are made to the Darien stations, particularly Noroton Heights which has suffered from years of deferred maintenance and is sorely in need of improvement. Ms. Klein pointed out to the Committee that under the current agreements, Darien is already remitting approximately \$100,000 per year to DOT and none of that money is being returned to the Town for capital projects. Under the proposed Agreement, Darien will be able to retain those funds and spend them to improve its train stations.

Ms. Klein conceded that parking fees for the train stations may need to be increased to meet the Town's obligations under the proposed Agreement. However, no decisions have been made with respect to how much additional revenue would be needed and when any fee increases would be imposed.

With respect to the provision in the Agreement that permits the DOT to take unused capital funds at the termination of the lease, Mr. Crary advised the Committee that the Town did not anticipate accumulating a substantial surplus in the capital which would be subject to forfeiture. A 2002 report commissioned by the DOT to survey the state of

Darien's train stations ("Urbitron Report") identified approximately \$500,000 in repairs needed at Noroton Heights alone, and the Committee was advised that the Town anticipated spending the capital fund as money accrued in the account for a number of the projects identified in that report. While DOT retains the right to approve the expenditure of capital improvement funds, it is not expected to object to using the funds for projects outlined in the Urbitron Report. Finally, the Committee was advised that no town has been able to negotiate for a provision in its lease requiring the DOT to spend forfeited capital improvement funds on the town from which they came.

With respect extension of the term of the Agreement through 2012 rather than 2018, it was explained to the Committee by Ms. Klein and Mr. Crary that DOT is trying to impose uniformity on all its leases on the Metro-North line and would like them all to terminate at approximately the same time. Although, Darien is giving up six years of its current option to lease the stations, Ms. Klein and Mr. Crary explained that they had no indication that DOT was interested in taking control of and managing Darien's train stations. With respect to whether Darien could negotiate a "most favored nation" clause, it was explained that no town has been able to negotiate such a provision with DOT. Finally, Mr. Steeger explained to the Committee that the worker protection training required in the Agreement is mandated by federal law and is not an onerous or expensive burden on his department or the Town.

Mr. Andrew then recognized members of the public permitting them to ask questions concerning the Agreement. Mr. Joseph Warren asked several questions of Ms. Klein and Mr. Crary including whether Darien is undertaking obligations to make structural repairs to the stations under the proposed Agreement and how the Town planned to coordinate its capital improvements of the station with work being performed by the DOT. Mr. Crary responded by saying that the contract is not as well worded as he would like in this regard, but that it is the interpretation of the Town that it is not undertaking the obligation to make structural repairs to the various structures at the stations. He also did not believe that there would be any serious problem in coordinating work with DOT. Finally, Mr. Warren noted that the capital fund created by the proposed Agreement would deprive the Town of the excuse that it did not have the money to make repairs at the stations. However, it was noted that this position on the part of the Town has resulted in little or no work being done at the Noroton Heights station.

Mr. Andrew also recognized Ms. Flora Smith who said that she had several questions about the Agreement, but preferred to submit them in writing to Ms. Klein.

Finally, Mr. Fox was asked by the Committee what remained of the 2003 First Supplemental Agreement which was not included in the package distributed to the Committee. Mr. Fox responded that while he did not have that agreement clearly in mind, he believed that it simply clarified the boundaries of the property leased by the Town and did not touch upon the issues discussed during the meeting.

At the conclusion of the discussion, the Committee deferred voting on the proposed Agreement and turned to a discussion of next item on its agenda, the Public Works Department budget. All Town officials, other than Messrs. Steeger and Oustafine, left the meeting at this point.

Mr. Steeger then led the Committee in a discussion of all aspects of the capital and operations budget of the Public Works Department. He noted that only one of the capital items, work on the Town Hall roof, survived the budget cuts imposed by the Board of Selectmen and Board of Finance. He noted that the failure to fund the repair of the Gorham Pond Dam should not lead to any catastrophic failure of the dam, but will lead to continued drainage and depletion of Gorham Pond. Mr. Steeger also noted that his department was losing a position through attrition and that this will effect the level of service the Public Works Department provides to the Town. At the conclusion of a lengthy discussion of the budget line items, Mr. Steeger emphasized that while he believed the Public Works Department was being asked to accept more than its share of budget cuts, he is confident that his department will do a good job within the constraints imposed upon it.

Committee member Mark Dailey then moved that the Committee approve the Public Works Department Budget as approved by the Board of Finance. The motion was seconded by Laurence Galvin and Committee then unanimously approved the motion by a vote of eight to zero.

The Committee then returned to the issue of whether it should approve the proposed Agreement with DOT. A discussion of the pros and cons of the Agreement and whether the Committee should defer voting until a later meeting in the event additional information became available was then held in which Mr. Steeger also participated. At the conclusion of the discussion, committee member Mark Dailey moved that the Committee approve the Second Supplemental Agreement between the State of Connecticut Department of Transportation and the Town of Darien. David Bayne seconded the motion and the Committee unanimously voted to approve the Agreement by a vote of eight to zero.

David Bayne then moved to adjourn the meeting which motion was seconded by John DeVita. The motion was unanimously approved and the meeting was adjourned at approximately 10:30 p.m.

Respectfully submitted,

David F. Bayne
Clerk of the RTM Public Works Committee